

Notice of Allowability	Application No.	Applicant(s)	
	09/717,579	JUTZI, CURTIS E.	
	Examiner Ngoc K. Vu	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to 1/29/07.
2. The allowed claim(s) is/are 1,9,11-15,23,25-29,37 and 39-42.
3. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some*
 - c) None
 of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. Notice of Informal Patent Application
6. Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other _____.

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1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Eric King on April 4, 2007.

The application has been amended as follows:

In the specification:

On page 23, lines 4-6, “*, or transmitted by a computer data signal embodied in a carrier wave, or a signal modulated by a carrier, over a transmission medium or communication link*” has been deleted.

On page 23, lines 11-14, “*a fiber optic medium, a radio frequency (RF) link,*”, and “*The computer data signal may include any signal that can propagate over a transmission medium such as electronic network channels, optical fibers, air, electromagnetic, RF links, etc. The code segments may be downloaded via computer networks such as the Internet, Intranet, etc.*” has been deleted.

On page 23, line 21, “*carrier, or media,*” has been deleted.

In the claim:

Claim 1, lines 8, 10, 11, and 15, before “*data test stream*”, --based-- has been inserted.

Claim 15, lines 8-10 and 14, before “*data test stream*”, --based-- has been inserted.

Claim 29, lines 1-3, “*A computer-readable storage medium having stored thereon instructions, which when executed by a processor, causes the processor to perform the*

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following" has been changed to --*A computer-readable medium encoded with computer executable instructions being executed by a computer to perform*--.

Claim 29, lines 10-12 and 16, before "data test stream", --based-- has been inserted.

Claim 37, line 1, after "computer-readable", "storage" has been deleted.

Claim 39, line 1, after "computer-readable", "storage" has been deleted.

Claim 40, line 1, after "computer-readable", "storage" has been deleted.

Claim 41, line 1, after "computer-readable", "storage" has been deleted.

Claim 42, line 1, after "computer-readable", "storage" has been deleted.

2. The following is an examiner's statement of reasons for allowance:

The prior art, singularly or in combination, does not teach or fairly suggest an apparatus, a method, and a computer-readable medium as variously claimed. Particularly, the prior art does not teach or fairly suggest receiving digital television broadcast signal including an Internet Protocol (IP) based data test stream located on a packet identifier of the digital television broadcast signal having a plurality of sequentially numbered IP data packets used to determine a service level of the digital television broadcast signal being received on a channel; determining the service level of the digital broadcast signal based upon a loss of IP data packets from the IP based data stream wherein determining the service level includes measuring a number of IP data packets of the IP based data test stream received over a predetermined interval and determining a data packet loss percentage value for the IP based data test stream by calculating a ratio of the measured number of IP data packets received and a number of IP data packets that should have been received; and displaying a service level diagnostic indicator based upon the loss of IP data packets from the IP based data test stream

to indicate the service level of the digital television broadcast signal, the service level diagnostic indicator being updated at predetermined intervals.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 571-272-7306. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



NGOC K. VU
PRIMARY EXAMINER
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